

June 30, 2010

Mr. Kary Shankar Chief Executive Officer Fox Insurance Company 40 West 25th Street – 6th Floor New York, NY 10010

Dear Mr. Shankar,

On March 9, 2010, we were notified by staff of the Centers for Medicare and Medicaid Services (CMS) that Fox Insurance Company's (Fox/Company) Prescription Drug Plan (PDP) contract would be terminated for jeopardizing the health and safety of 123,000 Medicare beneficiaries who were Fox enrollees. As Chairman and Ranking Member of the U.S. Senate Committee on Finance (Committee) with jurisdiction over Medicare we have a responsibility to protect this program and its more than 41 million beneficiaries and ensure that taxpayer funds are used appropriately.

We have learned from CMS that, despite receiving payments from CMS totaling \$30,550,000 for the month of February 2010 and over \$33,380,000 for the month of March 2010, Fox has not paid some pharmacy claims for the period leading up to the March 9, 2010 termination of the contract by CMS. We find it particularly troubling that Fox is arguing in district court to have its contract reinstated while, according to CMS, the Company continues to ignore its original fiduciary obligations for the period when the contract was in force. According to CMS, failure to pay these claims is in direct violation of the original contract and prompt-pay requirements. CMS reiterated this to Fox recently in a [May 17, 2010, letter \(attached\)](#), yet it is our understanding that Fox has still failed to pay those pharmacies having outstanding claims, despite the fact that Fox received funds from Medicare for the regular management of the drug benefit and payment of enrollee claims.

Accordingly, we ask that you provide us with the following information by July 9, 2010:

1. Medicare paid Fox more than \$66 million to provide prescription drug benefits for February and March. How much of this amount was being held by Fox Insurance Company as of June 1, 2010, and why?
2. How many claims for services provided prior to the March 9th termination of your contract with Medicare have been received but remain unpaid as of the date of this letter?
3. Please provide details, including specific dates, on whether or not Fox intends to pay any and all appropriately filed outstanding pharmacy claims.

4. Please provide any other documents that you believe are relevant to any appropriately filed, unpaid claims.

In cooperating with the Committee's review, no documents, records, data or information related to these matters shall be destroyed, modified, removed or otherwise made inaccessible to the Committee.

Thank you for your immediate attention to this important matter.

Sincerely,

Max Baucus Chairman of the Committee on Finance

Charles E. Grassley Ranking Member of the Committee on Finance